

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

Related Cases:

08-80232, 08-80380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80591, 09-80656, 09-80802, 09-81092,

**PLAINTIFF JANE DOE NO. 4's MOTION FOR PROTECTIVE ORDER
AS TO THE DEPOSITIONS OF CERTAIN NON-PARTY WITNESSES**

Plaintiff, Jane Doe No. 4 ("Plaintiff"), by and through undersigned counsel, hereby files Plaintiff Jane Doe No. 4's Motion for Protective Order, pursuant to S.D.Fla.L.R. 7.1, and states as follows:

1. On April 19, 2010, Defendant Epstein's counsel advised Plaintiff's counsel that he was setting dates for additional depositions related to Jane Doe No. 4. The persons to be subpoenaed for deposition include two of Jane Doe No. 4's soccer coaches. To Plaintiff's knowledge, neither of them is aware that Jane Doe No. 4 has a case against Defendant Epstein, nor are they aware of the underlying facts of Jane Doe No. 4's visits to Epstein's mansion in Palm Beach.

2. To date, Defendant Epstein has taken ten (10) depositions relating to Jane Doe No. 4. Jane Doe No. 4's deposition was taken over a two day period, encompassing 595 transcript pages. In addition, her mother, father and sister had their depositions taken by Defendant Epstein, as have her current boyfriend and ex-boyfriend, and her current mental health counselor. Defendant's counsel has also questioned other plaintiffs about Jane Doe No. 4, particularly Jane Doe No. 3 and Jane Doe No. 7, who are friends of Jane Doe No. 4.¹

3. The extensive depositions taken of Jane Doe No. 4, her family, friends, counselor, and boyfriends have not indicated that Plaintiff had a close relationship with either of her soccer coaches. They are scarcely mentioned at all. See Deposition of Jane Doe No. 4, pp. 517-518 attached hereto as Exhibit "1"; see also Deposition of Jane Doe No. 4's father [RZ], p. 145 attached hereto as Exhibit "2". Given the lack of testimony about them, and their unawareness of the allegations of sexual abuse underlying this case, Plaintiff verily believes their testimony can provide no material and relevant information. At the same time, the inevitable disclosures of Jane Doe 4's childhood sexual abuse and other private information during the depositions of Jane Doe No. 4's soccer coaches will serve to embarrass and humiliate Jane Doe No. 4. Any value they might hypothetically provide as witnesses is far outweighed by these adverse effects to Jane Doe No. 4.

4. The depositions of the soccer coaches is a continuation of the Defendant's pattern of harassing, embarrassing, intimidating, and attempting to ruin the reputations of Jane Doe No. 4 and his other victims. As has been demonstrated on prior occasions, these victims feel shame

¹ Additionally, Jane Doe No. 4 does not object to the deposition of Plaintiff's former college roommate, whose deposition is now being set for a mutually agreeable date. Additionally, she does not object to the deposition of another close friend in high school and college, Lauren Murphy, whose deposition was scheduled for April 7, 2010, but was cancelled by Defendant.

and fear about people in their communities learning the most intimate and embarrassing details of their lives, including their personal, sexual, and medical histories. See, e.g., Plaintiffs Jane Doe No. 101 and Jane Doe No. 102's Motion for No-Contact Order (D.E. 113); Plaintiffs Jane Does 2-7's Response to Defendant's Motion to Compel and/or Identify Plaintiffs in the Style of this Case (D.E. 144); Plaintiffs Jane Does' 2-7 Motion for Protective Order and Incorporated Memorandum of Law (D.E. 223); Plaintiffs Jane Doe Nos. 2-8's Motion for Protective Order as to Jeffrey Epstein's Attendance at Deposition of Plaintiffs, and Incorporated Memorandum of Law (D.E. 292); Affidavit of Dr. Kliman (D.E. 223, Ex. A); Jane Doe No. 4's Motion for Sanctions and Motion for Protective Order (D.E. 306); Order, dated October 23, 2009 (D.E. 369) (forbidding Epstein from attending Jane Doe No. 4's deposition); Omnibus Order (forbidding Epstein's attorneys from repetitive and abusive questioning during Plaintiffs' depositions) (D.E. 433). See also Plaintiff's Motion for Protective Order (regarding deposition of Jane Doe No. 4's sister, Y.B.) (DE 267).

5. Defendant Epstein's counsel has on prior occasions consistently and unnecessarily used depositions as a means to inform non-party witnesses about the most intimate details of the Plaintiffs' lives by using leading questions that disclose facts to the witnesses, without establishing any foundation for what the witnesses already know. For example, Jane Doe No. 4's father was asked the following questions that were gratuitously and unnecessarily loaded with personal information about Jane Doe No. 4:

* "During the time that [Jane Doe No. 4] was dating [her ex-boyfriend], were you aware that she was having relationships with other individuals? And by relationships, I mean other sexual relationships with other individuals, and was cheating on him?" (Exh. 3, p. 132);

* “[Jane Doe No. 4] testified also in deposition that she had been—there had been a videotape made of her and another female in various positions that some of her friends at least, or she was accused of having done, that would have been quote, unquote, a lesbian affair. Were you ever aware of that fact?” (Exh. 3, p. 137);

* “Were you ever aware that [Jane Doe No. 4] made a video or video was made of she and a person named Tammy when she was in high school that ended up on the Internet that showed them in, I don’t know sexually explicit but in, what some people have said, in their underwear but it looked sexually explicit?” (Exh. 3, p. 138); and

* “Did your daughter ever tell you that she worked at a gentleman’s club, a strip club?”; after the witness answered “no”, Epstein’s counsel asked: “If I ask you to assume that she testified that she tried out for three hours at a strip club called Dancers Royale in Orlando, has anyone told you that?” (Exh. 3, p. 143-44).

See Exhibit 3, deposition excerpts of Jane Doe No. 4’s father.

6. Jane Doe No. 4’s mother was asked questions similar to those asked of Jane Doe No. 4’s father, as well as questions such as “Did she ever tell you that she had made a video of she and [her ex-boyfriend] in an intimate relationship which she then showed to other people?”, without first being asked if she had any knowledge of her daughter’s sex life or her daughter making a video. See Exhibit 4, deposition excerpt of Jane Doe No. 4’s mother.

7. Defendant now wants to take the deposition of Rocky Orezzaoli, Jane Doe No. 4’s college soccer coach, and Bill Brown, Doe No. 4’s soccer coach in middle and high school. The past conduct of Epstein’s counsel suggests that they intend to disclose to these witnesses through deposition questioning private, personal details relating to Jane Doe No. 4, including her allegations of child sexual abuse and her sexual history.

8. Fed. R. Civ. P. 26 (c)(1) allows the court to issue an order to protect a party from annoyance, embarrassment, oppression, or undue burden or expense by several methods, including “(A) forbidding the disclosure or discovery,” and “(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters” upon good cause shown by the moving party. “The good cause standard for issuing a protective order requires the Court to balance the moving party’s interest in preventing the discovery sought against the other person’s interest in seeking the discovery.” Harrison v. Burlage, 2009 WL 2230794 * 4 (S.D. Fla. 2009) (citing Chicago Tribune Co. v. Bridgestone/Firestone, Inc., 263 F.3d 1304 (11th Cir. 2001)).

9. The persons sought to be deposed would not have information probative of Jane Doe No. 4’s claims or Defendant’s defenses. At best, they are fishing expeditions. The limited information the witnesses may be able to provide about Jane Doe No. 4 would be cumulative of other information already provided by the plethora of witnesses who have testified about Jane Doe No. 4.

10. Accordingly, Rule 26(c)(1) protective order is appropriate. If this Court is not inclined to prohibit the depositions of the soccer coaches entirely, then Plaintiff respectfully requests that the deposition questioning be restricted or limited to prevent leading questions that cause unnecessary disclosures of private, embarrassing and humiliating facts and information to the soccer coach witnesses.

WHEREFORE, Plaintiff Jane Doe 4 respectfully requests that this Court issue a protective order prohibiting or restricting the depositions of Rocky Orezzaoli and Bill Brown, and all such other relief this Court deems just and appropriate.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1.A.3

Undersigned counsel has conferred with Defendant's counsel in a good faith effort to resolve the issues raised in this motion, and has been unable to do so, as Defendant's counsel has advised that Defendant opposes this motion.

Dated: April 27, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day to all parties on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Stuart S. Mermelstein

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